

MAKING GOVERNMENT WORK BETTER COMMITTEE

Meeting Report June 09, 2004

PRESENT: Chair Nora Campos, Councilmember Chuck Reed, Councilmember Linda J. Le Zotte, Councilmember David Cortese

STAFF: Danielle Kenealey, Kay Winer, Jennifer Carlino, Christine Silva-Burnett, Eduardo Luna, Jerry Silva, Scott Johnson, David Sykes, Alex Gurza, Jose Obregon, Anna Jatczak, David Moreno, Linda Brouhard, Peter Jensen, Tom Manheim, Laurel Prevetti, Robin Klenke, Carl Mosher, Mike Edmonds, Amit Kothari, Jennifer Calloway, Nina Grayson, Nancy Lytle, Peggy Flynn, Jorge Oseguera, Ruth Merino

The meeting was convened at 2:30 PM

Kay Winer, Deputy City Manager made an announcement that a \$30,000 grant to assist public sector jurisdictions toward implementation of GASB performance reporting guidelines was awarded to the City of San Jose for the 'Enhancing CSA Performance Measures Report' and thanked the Committee for their letter of support on behalf of City Staff.

Chair Campos requested that item c., Transport Vehicles Audit (Auditor), be heard out of order to accommodate the public speakers.

Jerry Silva, City Auditor gave an overview of the report of the Utilization and Replacement of the City's Transport Vehicles. He said that of the City's over 1600 non-emergency vehicles, 528 may be used as transport vehicles. 332 under-utilized vehicles were removed as a result of the analysis for an economic benefit to the City of as much as \$1.7M over the next fiscal year and \$4.3M over the next two to ten years and complies with the City Policy's Standards for Assignment limiting assignment of sedans to individuals who drive 9,000 miles per year. He stated the exceptions to this requirement are not clearly defined in the current policy. Policy does allow for special purposes use according to job duty and assignment, but there is no specification for light trucks and the policy is unclear about special use vehicles. Auditor's staff determined that 88% of the 332 vehicles were driven less than 9,000 miles and performed a break-even analysis on sedans and light trucks and determined the point it becomes cost beneficial for the City to reimburse employees on a mileage basis versus using a city vehicle agrees with the 9,000 miles a year figure (for sedans and 11,000 for light trucks). He added that the annual cost of an under-utilized vehicle as opposed to mileage reimbursement is calculated at \$.5M per year in avoidance of replacement and maintenance and operation. There are currently about 700 employees receiving mileage reimbursement whose claims are reviewed by Finance. Finance lists employees whose claims exceed 750 miles per month. However, the computer system can handle only up to 9,999 miles per year. So, once a claim is approaching that number, miles reported thus far are rolled back so as to stay under the number the system can accommodate. The Auditor recommends that the City

Manager improve controls over the mileage reimbursement program to ensure accurate mileage is being reported and recorded. The Auditor also determined that some employees were parking the vehicles in remote locations proximate to their residence, rather than their place of work, so the City has been subsidizing some employees' commute. The Auditor has been working with the Police Department and Fleet Management Services to institute a rotation policy for police vehicles that has saved \$2.4M this year and about \$1.1M next year for the general fund. The Fire Department has been working on a similar policy for future savings and has volunteered 16 vehicles to be removed from their fleet for a savings of \$355,000. The Auditor has made 14 recommendations and Administration is in general concurrence on all of them.

Councilmember LeZotte wanted to know, of the 332 light trucks, how many were suggested to be removed due to under-utilization. Jerry replied that no number was suggested, but the number (306) was identified based on current policy and the break-even analysis. Councilmember Reed asked if, of the 9,000 miles, it's known how much is commuting miles. David Moreno, Supervising Auditor replied that Staff estimated commute miles and deducted that amount from the total.

Kay suggested that Jose Obregon, General Services Director provide the Administration's response. Although there was concurrence on the recommendations, there are some items that need to be addressed and revisited regarding the policy because it hasn't been changed since 1985.

Jose stated that areas of concern relative to public safety have either been addressed or are being addressed. Another concern is the need to re-examine the policy itself regarding the impact on the organization's ability to provide services, employee safety and the fact that there are 306 vehicles that don't meet the criteria. He requested the opportunity to re-examine the policy as to the impact on employees and city services and report back in 60 days. Kay added that developing some exception standards also needs to be reviewed. Jose said he believes there will be benefit to all of the recommendations, but is unsure to what degree each benefit may be maximized. Jerry mentioned that time was spent with affected departments, adjustments were made and he agreed that exceptions to policy clarification are needed.

Chair Campos expressed appreciation to the Auditor for bringing these items to light and asked Kay to keep time allowing two minutes each for public speakers to give their testimony on this issue.

The speakers included employees from PBCE, ESD, representatives from OE3, CAMP, MEF and the Tri-County Housing Association.

The majority of the employees' concerns were associated with potential safety issues as well as the possibility of damage/hazard to the vehicle or passengers using their personal vehicles while performing duties in the field. An issue was raised regarding the capacity of some personal cars for carrying equipment. Some also indicated that lack of mileage did not correlate to work use. For example, a code enforcement inspector might spend the entire day working in the same neighborhood. It was also stated that the mileage allowance is not in keeping with today's market standard. The labor representatives also raised the issue that no labor representatives

were involved with the process or analysis that produced the findings of the report and that there was a policy change (to the 1985 policy) in 1991 as a result of settlement of grievances prior to arbitration.

Chair Campos expressed appreciation for the speakers providing their input.

Councilmember Reed asked if there was more to the history of the grievances mentioned than was presented. Alex Gurza, Employee Relations Director replied that the 1991 policy was agreed upon and signed off on and implemented on a day-to-day basis throughout the entire period for MEF. Councilmember Reed confirmed that what Alex and Jose are saying is that what needs done is to take the Auditor's recommendations as a starting point and then, going forward, include all of the affected parties to determine the best way to deal with the impacts.

Councilmember Reed asked if the Auditor had any comment to the Administration's response. Jerry replied that he did not.

Councilmember Cortese asked Alex if what he was saying was that since the 1991 agreement was acknowledged, but not brought to Council to be adopted as city-wide policy, the 1985 document is technically the last policy and that it should be updated. Alex confirmed this.

Councilmember LeZotte expressed her appreciation to Jerry for the work that went into the report and especially to the speakers for their input. She commented that while listening to the safety concerns, she noted that there were far more of these expressed by women and said that women are more vulnerable in these situations.

Kay suggested that since there was a major portion of the audit related to police and fire vehicles where there was no disagreement and where there were associated savings, that portion be approved and adopted and that the mileage reimbursement policy be brought back at a later date. Jerry concurred. Chair Campos agreed with this and stated that Jose be afforded the 60 days to look at the recommendations that still need to be addressed.

A motion was made to accept the recommendations in the report that are unrelated to the 9,000 miles a year issue and revisit those remaining issues in 60 days. The motion was passed unanimously.

a. Public Works Real Estate Audit (Auditor) – Deferred from May

Jerry Silva gave an overview of the report and stated that there have been a lot of procedural and administrative improvements of the division's real property acquisition process regarding timeliness and the development of 14 standardized real estate documents. Staff identified the following items that need to be addressed:

- Timeliness of requests for temporary construction easements
- Need to establish performance standards for project costs

Jerry noted the following recommendations:

- City Attorney's Office and Division continue to standardize legal documents related to the real property acquisition process

- Public Works establish a process to ensure capital project construction plan changes are communicated when known and temporary construction easements and CEQA documents are requested timely
- Real Estate Division establish performance standards or benchmarks related to the costs to acquire real property

Jerry also noted that the costs of acquiring property for the Real Estate Division and the RDA's differed in that the Agency's costs were much lower on a per-parcel basis. The Agency used an outside consultant at an hourly rate of twice that of the in-house cost of the Division. However, the Agency's consultant took considerably less time and was much quicker to go to eminent domain, which probably accounts for part of the time discrepancy. Additionally, the Agency has decided, along with direction of Council, to no longer use outside consultants.

Councilmember LeZotte expressed her concern over the cost discrepancy and wanted to know if Staff had investigated that further and what the justification was for using the outside consultant. Eduardo Luna, Supervising Auditor replied that the Agency's decision was based on workload reduction.

Councilmember LeZotte stated that she was surprised at the amount of use of eminent domain and asked if it was the threat of eminent domain or just for going through it. Eduardo replied that eminent domain would be filed while negotiations were ongoing.

Councilmember LeZotte stated that she did not believe this point was relevant when looking at the disparity in hours. Jerry replied that what is known is the impact that eminent domain being called into play has on negotiations.

Councilmember LeZotte was concerned that this is being used as an excuse as to why the Agency is so much lower and wanted to know if the Division was looking at cutting their consultant hours. Dave Sykes, Public Works (PW) Assistant Director replied that Staff agrees with the recommendations, but has not been able to conduct a thorough investigation in that area.

Councilmember LeZotte requested a report to come back with something learned for the One Voice from the way this was done and to answer to the disparity. Kay stated that it is conceivable that costing is performed differently for PW and RDA and this should be reviewed in the accounting of the costs. Jerry replied that comparisons are difficult, but felt they were interesting and so were put into the report without a recommendation.

Councilmember Reed wanted to know if the numbers reported included the lawyer's charges. Eduardo Luna, Supervising Auditor and Robin Klenke, Sr. Program Performance Auditor replied that no lawyer's fees were included in the figures.

Councilmember Reed asked if there were any internal controls to tell if the hours reported were actually spent on that work. Dave replied that there are different controls in place now than there were then and that there is a different way of accounting between the two agencies.

Councilmember Reed would like Staff to follow-up by tracking hours per acquisition over time or look at under the new standards. Jerry replied that Staff could do that.

A motion was made to accept the report with the instruction to report back in one year with and in-depth analysis of the differences between the two agencies and to put it into the Work Plan. The motion was passed unanimously.

b. School Crossing Guards Audit (Auditor) – Deferred from May

Jerry gave an overview of the audit report of the Department of Transportation's (DOT) process for determining which crosswalks get a crossing guard:

- The role of the School Pedestrian Safety Committee (SPSC) serves as an advisory to SJPD on school safety and placement of guards and reviews studies for school traffic controls and safety programs
- The role of DOT is to process requests for crossing guard studies, perform engineering studies to determine the need and present results to SPSC
- The role of SJPD is to manage the program, recruit, select, train, supervise and schedule guards (205 currently authorized)

Jerry explained that in 1950, the School Traffic Advisory Council (STSAC) developed a safety index formula to measure the relative safety of an intersection and established 120 as the minimum value to warrant a guard. DOT staff calculates the index formula based on the physical dimensions of the intersection, number of vehicles and turns, and number and age of children crossing. Staff then enters the information from the study into the formula to calculate the index and presents it to the SPSC.

Jerry highlighted findings and recommendations:

- The index formula incorrectly assumes the K-5/K-6 schools have a safety patrol, limits the number of turns considered and does not provide sufficient weight to intersections with high numbers of children crossing
- City Council has not reviewed the index formula and safety index value since 1985
- DOT incorrectly entered data into the index formula and needs procedures to ensure it analyzes intersections in a consistent manner and decisions are adequately documented.
- DOT should revise the safety index formula and recalculate the intersections that have not qualified for guards within the last three years and submit the results to the SPSC
- DOT should submit the revised index formula to the SPSC and Council for approval along with the anticipated budgetary implications of increasing or decreasing the index value
- DOT should develop written procedures for entering information into the formula and provide sufficient supervisory review; as well as document the rationale for the decisions
- DOT should provide the SPSC with the posted speed limit and date of any speed study with a diagram of the intersection being considered for a guard showing:
 - Number and approximate ages of children and direction they're crossing

- Total number of vehicles crossing each leg of the intersection
- Number of vehicles turns

Councilmember Reed commented that the formula index seemed like a complicated way of making a list of the worst to least worst places. He was concerned that if in updating the formula from what it was in 1950, things that should be measured would be. Jerry replied that Staff agreed with the process in concept and believes that recommended changes would address those concerns.

Councilmember Cortese commented that he believed, in his district, there isn't one school intersection that does not warrant a crossing guard. He would like Staff to formally comment at how the costs could be mitigated for training new crossing guards in the form of a projected claims analysis. He added that this issue would seem to tie in with the Traffic Calming Audit that has been deferred. Jerry stated that this was part of traffic calming, but was extracted out for the study. Councilmember Cortese requested it be folded back in prior to final assessments being made. He mentioned that there is a trade off being made with the fact that the police department is being deployed to handle the traffic issues that are being created from parents dropping their children off at curbside and would like to see an analysis done.

Councilmember LeZotte stated that she would not like to see the paperwork and cost of doing an analysis that is so cumbersome cause the loss of getting the crossing guards where they are truly needed and concurred that what is needed is a list of school intersections in rank order. She stated that the funding for this should come from several sources in light of the budget. Kay commented that previously the formula didn't fit with which intersections needed a guard, but that, as a result of this study, it does now and the challenge is how it will be funded.

Councilmember Reed wanted to know how traffic signals fit into this study. Amit Kothari, Deputy Director, DOT responded that this was factored in and added that those intersections with a stop sign or signal light did not score as well as an unimpeded intersection.

Chair Campos asked what the timeframe would be to implement the recommendations. Amit responded that Staff has already begun work on the recommendations and plans to take it to the SPSC in August or September. Once the revisions are made, they will be taken to Council prior to December. Chair Campos reminded Jerry to include this item when the Traffic Calming Audit is done. Jerry responded that he would.

Councilmember Reed mentioned that there have been some recommendations made to some schools regarding traffic calming and that needs to be considered when looking at the crossing guard analysis.

Upon motion of Councilmember LeZotte, seconded by Councilmember Reed, the Committee accepted the staff report with the direction to revisit the issue on a five-year period basis.

Item e., Airport Concessions Contract Audit (Auditor) – Follow-up to April Meeting was taken out of order to conclude the Auditor's reports.

Jerry gave an overview of the report and stated that Avis was the rental car agency that was looked at over an 11-month period. Staff reviewed how the concession fee was calculated and came up with a nominal amount owed to the airport. However, there were no major problems revealed as a result of the study and the director felt it had been worthwhile. The problem that Staff encountered was that in eight of the 11 months studied, Avis was below the maximum annual guarantee required which means they had paid more than what any findings would indicate. Staff identified that it was impossible to calculate how much savings there were to be made regarding fuel for the rental cars due to the fact that when the customer brings the car back, it is not determined how much fuel is in the tank before it is refueled prior to going to another customer. If this can be calculated for revenues next year, it will produce a higher minimum annual guarantee and produce more revenue for the airport. Staff also determined that the contract could be revised to be less complicated and easier to administer.

Councilmember Cortese asked why there was nothing in the report regarding living wage as far as vendors were concerned. Nina Grayson, OEA Director replied that the City does not contract directly with the rental car agencies and policy states this would apply only if it were a direct service. Councilmember Cortese wanted to know if it could be determined if there was a discrepancy if the amount of fuel purchased could be measured against how much was charged to the customer. Nina replied that those figures were not separated out so that it couldn't be determined.

Upon motion of Councilmember Reed, seconded by Councilmember Cortese, the Committee accepted the Staff report.

d. Follow-up on Effectiveness of Current City and RDA Community Outreach (City Manager/RDA) – Deferred from May

Tom Manheim, City Manager's Office Public Outreach Manager gave an overview of the report and spoke about the outreach efforts that have been made with the RDA and Planning departments to develop policy regarding notification. All city departments were surveyed on how well it was perceived that outreach was being done with particular emphasis on ethnic outreach. He explained the outreach efforts are broken down into two categories:

- Awareness raising campaigns i.e., programs offered and services provided that rely on publications produced and distributed internally
- Time sensitive and/or project oriented activities

Tom provided a census tract data map (from the 2000 census) showing where the majority of the populations are located, citywide. Staff uses data such as this as a starting point, then goes to those individuals who know the community, such as Council offices, NDC and SNI to determine where, when and what types of activities should be done. There are approximately 50 yearly festivals and fairs that Staff attends with materials in the relevant languages to hand out to booth visitors. These are some obvious ways to reach communities effectively versus paying for advertising through the media or convincing them that it's newsworthy, which is not easily done. Tom provided a list of more than 60 publications citywide that are being translated into several languages. Staff also looked at the number of bi-lingual employees within the city database and provided a matrix that showed more than 800 employees certified

in 12 different languages, mainly in police and fire departments that can assist with translation. The Viet relations group, started in the RDA, has been very successful in reaching out to the different communities and Staff is now expanding that effort to create an ethnic outreach group.

Councilmember Cortese stated that the map Tom provided could be useful in many respects and asked if the unincorporated areas of the city could be included in these maps in the future. Tom responded that the appropriate staff member from Planning was in attendance and could ensure that was taken care of.

Nancy Lytle, RDA gave an update example of an outreach effort Staff has been working on. The task, from the master plan, was to construct braided paths with names of many of the ethnic groups that comprise the current demographics convergent with a reflective pool, containing children's names on the stones embedded in the pool at the Guadalupe River Trail Park. The names were chosen by engaging different agencies to come up with children's names in ethnic classifications.

Laurel Prevetti, Deputy Director, PBCE gave an update on the public outreach policy that Staff worked on updating to include not only ethnic outreach, but early notification. Staff also began doing outreach with the homebuilders association that raised concerns with the direction the policy was heading regarding cost. Staff convened a focus group with the development community and SNI PAC leaders to find common ground for updates that would meet the need to get word out to the community in a way that would be cost effective as well as timely and it is still in process.

Chair Campos wanted a list of the media that are currently being worked with. Tom replied that could be provided. Tom added that after the 2000 redistricting was done, Staff conducted an extensive campaign through all of the ethnic media.

Councilmember Reed commented that his experience shows that the radio is the most effective way to reach the Vietnamese community.

Upon motion of Councilmember Reed, seconded by Councilmember LeZotte, the Committee accepted the staff report.

- f. Traffic Calming Audit (Auditor) – Deferred to the Next Fiscal Year Work Plan
- g. The Youth Commission Audit (Auditor) – Deferred to the Next Fiscal Year Work Plan
- h. Public Art Allocation Project (Auditor) – Deferred to the Next fiscal Year Work Plan
- i. San Jose Municipal Water System Audit (Auditor) – Deferred to the Next Fiscal Year Work Plan
- j. Los Lagos Golf Course Operations and Finance (Auditor) – Deferred to the Next Fiscal Year Work Plan

k. Environmental Services Department Laboratory Audit (Auditor) – **Deferred to the Next Fiscal Year Work Plan**

l. Oral Petitions

m. Adjournment

The Committee was adjourned at 4:40 P.M.

Councilmember Nora Campos, Chair,
Making Government Work Better Committee